IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

TEST. PETITION NO. 531 OF 2004

Perin Ardeshir Dalal .. Deceased

Nariman Darabshaw Khan .. Petitioner

Mr. Phirdos Pooniwalla i/b Wadiya Gandhi & Co.for the Petitioner.

CORAM : S.K. SHAH, J.

DATED : 24.3.2005.

P.C.-

1. This Petition is taken out for amendment of the probate granted under this Petition, as a result of subsequent changes. Learned Counsel for the Petitioner submits that as a result of the probate having been granted in respect of the Will of his brother in Petition No.1161 of 1998 - Exhibit -C to the affidavit of the petitioner dated 19th March, 2005, the share of the deceased in those properties namely a Flat at 6A, Brighton Co-operative Housing Society Limited, Nepean Sea Road, Mumbai and the property at Dalal Street Vijalpur, Bharuch, Gujrath, as prescribed in para-16 of the proposed amendment and, therefore, the probate which is granted in respect of the deceased whose shares have been crystalised is necessary to be amended. Learned Counsel for the Petitioner submits that when the original probate was granted, the citation was served on all the parties interested and all of those parties have filed the consent affidavits. He further submits that he has served all the persons interested in

respect of the proposed amendment and during the course of the day he undertakes to file affidavit of service.

2. He further requests that the issuance of the fresh citation in respect of the proposed amendment may be dispensed with in view of the fact that the proposed amendment has been individually served to all the persons interested.

3. Under these circumstances, the proposed amendment to the probate already granted in Petition No. 531 of 2004 is allowed.

4. Necessary amendment shall be carried out in the original probate.

5. Petition stands disposed of.

[S.K.SHAH, J.]